

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ANDREW L. SCHLAFLY, on Behalf of
Himself Individually and on Behalf of All Other
Members of Eagle Forum, a Non-Profit
Membership Corporation

Plaintiff,

vs.

THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY and JOHN
HANCOCK LIFE INSURANCE COMPANY
(USA),

Defendants and Third-Party Plaintiffs,

vs.

ANNE SCHLAFLY CORI, EUNIE SMITH,
CATHIE ADAMS, ROSINA KOVAR,
CAROLYN MCLARTY, SHIRLEY CURRY,
EDWARD R. MARTIN, JR., JOHN F.
SCHLAFLY, BRUCE S. SCHLAFLY,
KATHLEEN SULLIVAN, ESTATE OF
PHYLLIS M. SCHLAFLY, THE PHYLLIS
SCHLAFLY IRREVOCABLE INSURANCE
TRUST, EAGLE TRUST FUND, EAGLE
FORUM EDUCATION AND LEGAL
DEFENSE FUND, AND EAGLE FORUM,

Third-Party Defendants.

CASE No. 2:17-cv-02522-ES-SCM

**STIPULATION AND PROPOSED
CONSENT ORDER FOR
PAYMENT OF FUNDS FROM
THE COURT REGISTRY
INVESTMENT SYSTEM**

WHEREAS, on or about February 14, 2006, Defendant and Third-Party Plaintiff The Lincoln National Life Insurance Company ("Lincoln") issued a life insurance policy to the Eagle Forum Education and Legal Defense Fund (the "**EFELDF**") bearing policy number JP5553913 which insured the life of Phyllis Schlafly (the "**Decedent**") and has a death benefit of Two Million Dollars (\$2,000,000) (the "**EFELDF Policy**");

WHEREAS, on or about February 14, 2006, Lincoln issued a life insurance policy to the Phyllis Schlafly Irrevocable Insurance Trust ("**Schlafly Trust**") bearing policy number JP5553909

which insured the life of Decedent and has a death benefit of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000) (the “Trust Policy”);

WHEREAS, on or about February 14, 2006, Lincoln issued a life insurance policy to Eagle Forum bearing policy number JP5553916 which insured the life of Phyllis Schlafly (the “Decedent”) and has a death benefit of Two Million Dollars (\$2,000,000) (the “Eagle Forum Policy”);

WHEREAS, the Decedent died on September 5, 2016;

WHEREAS, Andrew Schlafly (“Plaintiff”) commenced this action against Lincoln by filing a civil action complaint (“Complaint”) in the Superior Court of New Jersey, Morris County Law Division on March 13, 2017:

WHEREAS, Lincoln removed the Complaint to the United States District Court for the District of New Jersey;

WHEREAS, on May 3, 2017, Lincoln filed an Answer to Plaintiff’s Amended Complaint and Counterclaim/Third-Party Complaint (“CTPC,” D.E. 7) against Plaintiff, Anne Schlafly Cori, Eunie Smith, Cathie Adams, Rosina Kovar, Carolyn McLarty, Shirley Curry, Edward R. Martin, Jr., John F. Schlafly, Bruce S. Schlafly, Kathleen Sullivan, Estate of Phyllis M. Schlafly, The Schlafly Trust, Eagle Trust Fund, EFELDF, and Eagle Forum seeking, *inter alia*, interpleader relief with respect to the EFELDF and Trust Policies;

WHEREAS, Lincoln achieved service of its CTPC upon Plaintiff and Third-Party Defendants [D.E. 37- 43, 47, 59-62, 107];

WHEREAS, Third-Party Defendants Shirley Curry, Rosina Kovar, Cathie Adams, Eunie Smith, Carolyn McLarty, Kathleen Sullivan, and Anne Schlafly Cori have neither filed pleadings

responsive to Lincoln's CTPC within the time permitted by the Federal Rules of Civil Procedure nor have they sought an extension of time to respond [D.E. 38-42, 107];

WHEREAS, Plaintiff, Edward R. Martin, Jr., John F. Schlafly, Bruce S. Schlafly, Kathleen Sullivan, Estate of Phyllis M. Schlafly, The Schlafly Trust, Eagle Trust Fund, EFELDF, and Eagle Forum filed pleadings responsive to Lincoln's CTPC;

WHEREAS, on May 5, 2017, this Court entered an Order authorizing Lincoln to deposit funds with the Court Registry Investment System (C.R.I.S.), which included the death benefits from the EFELDF Policy and Trust Policy [D.E. 13];

WHEREAS, on May 10, 2017, Plaintiff timely filed a Motion for Reconsideration of the foregoing Order with respect to the EFELDF and Trust Policies [D.E. 22]. The Motion for Reconsideration has been administratively terminated pending the potential resolution of the payment of the death benefits with respect to the EFELDF Policy and Trust Policy;

WHEREAS, on or about May 22, 2017, Lincoln deposited funds in the C.R.I.S. which included the death benefits from the EFELDF and Trust Policies totaling \$3,250,000.00 [D.E. 27];

WHEREAS, on July 31, 2017, Lincoln moved for dismissal, discharge and an award of its attorneys' fees and costs to be paid from the EFELDF, Trust, and Eagle Forum Policies ("**Discharge Motion**") [D.E. 109];

WHEREAS, the portion of Lincoln's Discharge Motion as it relates to the Eagle Forum Policy is unopposed and has been resolved by Stipulation [D.E. 118], except that Eagle Forum opposes an award of attorneys' fees to Lincoln [D.E. 123];

WHEREAS, an initial case management conference was held before The Honorable Steven C. Mannion on August 18, 2017, and counsel for the parties indicated their willingness to consent to distribution of the proceeds from the EFELDF and Trust Policies;

WHEREAS, the Discharge Motion is currently stayed pending a potential resolution by parties regarding the distribution of the EFELDF and Trust Policies [D.E. 123];

WHEREAS, all of the parties who have appeared in this action and who possess direct claims to the proceeds on the EFELDF and Trust Policies consent to the distribution of the proceeds on the EFELDF and Trust Policies in the manner set forth below;

WHEREAS, Lincoln has agreed to waive its right to seek an award of attorneys' fees in connection with EFELDF and Trust Policies;

WHEREAS, Lincoln expressly reserves its right to seek an award of the attorneys' fees in connection with the Eagle Forum Policy;

NOW, THEN, IT IS HEREBY STIPULATED AND AGREED and IT IS ON THIS _____ DAY OF _____, 2017, ORDERED:

1. Following a decision on Lincoln's Discharge Motion, the clerk of the Court shall make a prompt payment from the appropriate account in the C.R.I.S. in the total amount of \$3,250,000.00, to Nelson Mitten, Esq., Riezman Berger, P.C., 7700 Bonhomme Ave., 7th Floor, St. Louis, MO 63105 ("Recipient"), or as instructed in writing by Recipient, plus the interest accrued on that amount since it was deposited with the C.R.I.S., minus the administrative fee of 10% of the interest income as set forth in the May 5, 2017 order [D.E. 13].

2. Defendant Lincoln is discharged of any further liability in connection with the EFELDF and Trust Policies upon receipt by the Recipient of payment of the funds as required by this Order.

3. Upon receipt by the Recipient of payment of the funds as required by this Order, Plaintiff, Anne Schlafly Cori, Eunie Smith, Cathie Adams, Rosina Kovar, Carolyn McLarty, Shirley Curry, Edward R. Martin, Jr., John F. Schlafly, Bruce S. Schlafly, Kathleen Sullivan, Estate of Phyllis M. Schlafly, The Phyllis Schlafly Irrevocable Insurance Trust, Eagle Trust Fund,

Eagle Forum Education and Legal Defense Fund, and Eagle Forum, and all other persons or entities, are hereby forever enjoined and restrained from instituting, prosecuting or maintaining, directly or indirectly, any claim or action of any type or kind against Lincoln arising from or in any manner relating to the benefits payable under the EFELDF and Trust Policies, and/or their respective claims for payment of all, or a portion of, the EFELDF Policy and Trust Policy benefits by Lincoln.

4. Third-Party Defendants the Estate of Phyllis M. Schlafly, The Phyllis Schlafly Irrevocable Insurance Trust, Eagle Trust Fund, Eagle Forum Education and Legal Defense Fund, and Eagle Forum are hereby dismissed from the Third Party Complaint of Lincoln as to the EFELDF Policy and Trust Policy [D.E.7].

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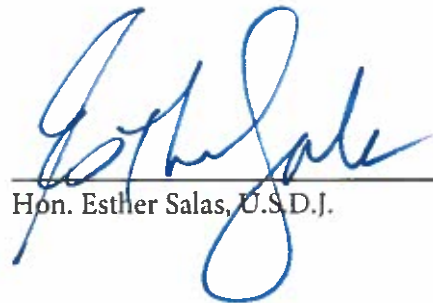
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SO ORDERED this 23rd day of October, 2017



Hon. Esther Salas, U.S.D.J.